

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JOHN COOK,

Plaintiff,

v.

LAND O'LAKES, INC.,

Defendant.

Case No. 1: 20-cv-00553-NONE-SAB

SCHEDULING ORDER (Fed. R. Civ. P 16)

Class Certification Deadline:

Motion Filing: November 8, 2021

Discovery Deadlines:

Non-Expert Discovery: September 27, 2021

I. Date of Scheduling Conference

The Scheduling Conference in this matter was held on **June 19, 2020**.

II. Appearances of Counsel

Jonathan Lebe and Zachary Gershman telephonically appeared on behalf of Plaintiff John Cook.

Joan Fife telephonically appeared on behalf of Defendant Land O'Lakes, Inc.

III. Consent to Magistrate Judge

All parties have not consented to the jurisdiction of the magistrate judge. As the parties were advised in the Standing Order in Light of Ongoing Judicial Emergency in the Eastern District of California (ECF No. 2-2), in the Fresno Division of the Eastern District, Judge Dale A. Drozd is the district judge handling all cases assigned to himself and to those cases that are

1 currently unassigned to a district judge. Due to the enormous case load, it is unavoidable that
2 there are significant delays in deciding matters filed before the district judge. Pursuant to 28
3 U.S.C. § 636(c), to the parties who have not consented to conduct all further proceedings in this
4 case, including trial, before United States Magistrate Judge Stanley A. Boone, you should be
5 informed that because of the pressing workload of United States district judges and the priority of
6 criminal cases under the United States Constitution, you are encouraged to consider consenting to
7 magistrate judge jurisdiction in an effort to have your case adjudicated in a timely and cost
8 effective manner.

9 **IV. Initial Disclosure under Fed. R. Civ. P. 26(a)(1)**

10 The parties exchanged the initial disclosures required by Fed. R. Civ. P. 26(a)(1) prior to
11 the scheduling conference.

12 **V. Amendments to Pleading**

13 Plaintiff may seek to amend the pleadings to add additional class representatives. The
14 parties are advised that filing motions and/or stipulations requesting leave to amend the pleadings
15 does not reflect on the propriety of the amendment or imply good cause to modify the existing
16 schedule, if necessary. All proposed amendments must (A) be supported by good cause pursuant
17 to Fed. R. Civ. P. 16(b) if the amendment requires any modification to the existing schedule, *see*
18 Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992), and (B) establish,
19 under Fed. R. Civ. P. 15(a), that such an amendment is not (1) prejudicial to the opposing party,
20 (2) the product of undue delay, (3) proposed in bad faith, or (4) futile, *see Foman v. Davis*, 371
21 U.S. 178, 182 (1962).

22 **VI. Class Certification**

23 Scheduling in this matter will be a phased with this first phase addressing class
24 certification. Any motions for class certification shall be filed on or before **November 8, 2021**.

25 **VII. Discovery Plan and Cut-Off Dates**

26 The parties are ordered to complete all non-expert discovery on or before **September 27,**
27 **2021.**

28 The provisions of Fed. R. Civ. P. 26(e) regarding a party's duty to timely supplement

1 disclosures and responses to discovery requests will be strictly enforced.

2 The parties are cautioned that the discovery/expert cut-off deadlines are the dates by
3 which all discovery must be completed. Absent good cause, discovery motions will not be heard
4 after the discovery deadlines. Moreover, absent good cause, the Court will only grant relief on a
5 discovery motion if the relief requested requires the parties to act before the expiration of the
6 relevant discovery deadline. In other words, discovery requests and deposition notices must be
7 served sufficiently in advance of the discovery deadlines to permit time for a response, time to
8 meet and confer, time to prepare, file and hear a motion to compel and time to obtain relief on a
9 motion to compel. Counsel are expected to take these contingencies into account when proposing
10 discovery deadlines. Compliance with these discovery cutoffs requires motions to compel be
11 filed *and heard* sufficiently in advance of the discovery cutoff so that the Court may grant
12 effective relief within the allotted discovery time. A party's failure to have a discovery dispute
13 heard sufficiently in advance of the discovery cutoff may result in denial of the motion as
14 untimely.

15 **VIII. Pre-Trial Motion Schedule**

16 Unless prior leave of Court is obtained at least seven (7) days before the filing date, all
17 moving and opposition briefs or legal memorandum in civil cases shall not exceed twenty-five
18 (25) pages. Reply briefs filed by moving parties shall not exceed ten (10) pages. Before
19 scheduling any motion, the parties must comply with all requirements set forth in Local Rule 230
20 and 251.

21 **A. Non-Dispositive Pre-Trial Motions**

22 As noted, all non-expert discovery, including motions to compel, shall be completed no
23 later than **September 27, 2021**. Compliance with these discovery cutoffs requires motions to
24 compel be filed *and heard* sufficiently in advance of the discovery cutoff so that the Court may
25 grant effective relief within the allotted discovery time. A party's failure to have a discovery
26 dispute heard sufficiently in advance of the discovery cutoff may result in denial of the motion as
27 untimely. Non-dispositive motions are heard on Wednesdays at 10:00 a.m., before United States
28 Magistrate Judge Stanley A. Boone in Courtroom 9.

In scheduling any non-dispositive motion, the Magistrate Judge may grant Applications for an Order Shortening Time pursuant to Local Rule 144(e). However, if counsel does not obtain an Order Shortening Time, the Notice of Motion must comply with Local Rule 251.

Counsel may appear and argue non-dispositive motions by telephone, providing a written request to so appear is made to the Magistrate Judge's Courtroom Clerk no later than three (3) court days before the noticed hearing date. In the event that more than one attorney requests to appear by telephone, then it shall be the obligation of the moving party(ies) to arrange and originate a conference call to the court.

Discovery Disputes: If a motion is brought under Fed. R. Civ. P. 37, the parties must prepare and file a Joint Statement re Discovery Disagreement ("Joint Statement") as required by Local Rule 251. The Joint Statement must be filed seven (7) calendar days before the scheduled hearing date. Courtesy copies of all motion-related documents, declarations, and exhibits must be delivered to the Clerk's Office by 10:00 a.m. on the fourth court day prior to the scheduled hearing date. Motions will be removed from the court's hearing calendar if the Joint Statement is not timely filed or if courtesy copies are not timely delivered. In order to satisfy the meet and confer requirement set forth in Local Rule 251(b), the parties must confer and talk to each other in person, over the telephone or via video conferencing before the hearing about the discovery dispute. The Court may issue sanctions against the moving party or the opposing party if either party fails to meet and confer in good faith.

B. Dispositive Pre-Trial Motions

Motions for Summary Judgment or Summary Adjudication: Prior to filing a motion for summary judgment or motion for summary adjudication, the parties are ORDERED to meet, in person or by telephone, and confer to discuss the issues to be raised in the motion.

The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the issues for review by the court; 5) explore the possibility of settlement before the parties incur the expense of briefing a summary judgment motion; and 6) to arrive at a

1 Joint Statement of Undisputed Facts.

2 The moving party shall initiate the meeting and provide a draft of the Joint Statement of
3 Undisputed Facts. **In addition to the requirements of Local Rule 260, the moving party shall**
4 **file a Joint Statement of Undisputed Facts.**

5 In the Notice of Motion, the moving party shall certify that the parties have met and
6 conferred as ordered above or set forth a statement of good cause for the failure to meet and
7 confer.

8 **IX. Related Matters Pending**

9 There is currently a case entitled Alejandro Inacio, et al. v. Land O'Lakes, Inc., et al., no.
10 19-cv-04520 proceeding in the Superior Court of California, County of Merced.

11 **X. Compliance with Federal Procedure**

12 All counsel are expected to familiarize themselves with the Federal Rules of Civil
13 Procedure and the Local Rules of the Eastern District of California, and to keep abreast of any
14 amendments thereto. The Court must insist upon compliance with these Rules if it is to
15 efficiently handle its increasing case load and sanctions will be imposed for failure to follow the
16 Rules as provided in both the Federal Rules of Civil Procedure and the Local Rules for the
17 Eastern District of California.

18 Additional requirements and more detailed procedures for courtroom practice before
19 United States Magistrate Judge Stanley A. Boone can be found at the United States District Court
20 for the Eastern District of California's website (www.caed.uscourts.gov) under Judges; United
21 States Magistrate Judge Stanley A. Boone (SAB). In the area entitled "Case Management
22 Procedures," there is a link to "Standard Information." All parties and counsel shall comply with
23 the guidelines set forth therein.

24 **XI. Effect of this Order**

25 The foregoing order represents the best estimate of the court and counsel as to the agenda
26 most suitable to dispose of this case. The trial date reserved is specifically reserved for this case.
27 If the parties determine at any time that the schedule outlined in this order cannot be met, counsel
28 are ordered to notify the court immediately of that fact so that adjustments may be made, either

1 by stipulation or by subsequent status conference.

2 **Stipulations extending the deadlines contained herein will not be considered unless**
3 **they are accompanied by affidavits or declarations, and where appropriate attached**
4 **exhibits, which establish good cause for granting the relief requested. The parties are**
5 **advised that due to the impacted nature of civil cases on the district judges in the Eastern**
6 **District of California, Fresno Division, that stipulations to continue set dates are disfavored**
7 **and will not be granted absent good cause.**

8 **Lastly, should counsel or a party appearing *pro se* fail to comply with the directions**
9 **as set forth above, an *ex parte* hearing may be held and contempt sanctions, including**
10 **monetary sanctions, dismissal, default, or other appropriate judgment, may be imposed**
11 **and/or ordered.**

12 IT IS SO ORDERED.

13 Dated: June 19, 2020



UNITED STATES MAGISTRATE JUDGE

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